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PRE-APPEAL BRIEF REQUEST FOR REVIEW

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on May 22, 2006

Signature

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Jackie Tanda

Application Number

09/773,047

Filed

January 29, 2001

First Named Inventor

Jennie CHING et al

Art Unit

2611

Examiner

Kieu-Danh T. BUI

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record

47,797

Registration number

☐

attorney or agent acting under 37 CFR 1.34

Registration number if acting under 37 CFR 1.34

Signature

Erin C. Ming

Typed or printed name

(550) 493-4540

Telephone number

May 22, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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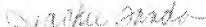
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Jackie Tanda

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	Date: May 22, 2006
Jennie CHING et al.	Confirmation No. 7262
Serial No: 09/773,047	Group Art Unit: 2611
Filed: January 29, 2001	Examiner: Kieu-Oanh T. BUI
For:	METHOD AND SYSTEM FOR OBJECT RETRANSMISSION WITHOUT A CONTINUOUS NETWORK CONNECTION IN A DIGITAL MEDIA DISTRIBUTOR SYSTEM

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF

Dear Sir or Madam:

In the present application, independent claims 48, 61, and 71 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. App. Pub. No. 2002/0016831 to Peled et al. (hereinafter "Peled"). Applicant respectfully submits that the rejection is improper since Peled clearly fails to disclose the elements recited in claims 48, 61, and 71, and as such, a prima facie case of anticipation has not been established.

Claim 48 recites:

A method for object retransmission without a continuous network connection in a digital media distributor system, the method comprising:

transmitting a plurality of objects from a central site to each of a plurality of receivers in a zone;

receiving a response document from each of the plurality of receivers, each response document being asynchronously transmitted from the respective receiver to the central site; and

determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents.

The Examiner has construed the interaction between an online vendor and consumers as disclosing the interaction between the “central site” and the “plurality of receivers” recited in claim 48. *See, e.g.*, pg. 6 of February 22, 2006 final Office action. In particular, the Examiner asserts that the online vendor sending product offerings, such as a clothing catalog, to consumers discloses “transmitting a plurality of objects from a central site to each of a plurality of receivers,” as recited in claim 48. The Examiner also asserts that consumers sending purchase orders back to the vendor equates to “receiving a response document from each of the plurality of receivers,” as recited in claim 48. Further, it is the Examiner’s assertion that the vendor sending consumers the actual purchased products, such as a piece of clothing, discloses “determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents,” as recited in claim 48.

Claim 48, however, recites “determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents” (emphasis added). In other words, the plurality of objects in which the determination relates to is the plurality of objects that was transmitted from the central site to the plurality of receivers in the transmitting step because the term “retransmit” is defined as the repeat transmission of

something previously transmitted. Applicant should not have to explicitly recite that the plurality of objects in the determining step is the plurality of objects previously transmitted from the central site since it necessarily follows from the definition of the term "retransmit."

Thus, if the Examiner construes product offerings as the initial objects being transmitted, then the vendor sending actual purchased products in response to purchase orders cannot be construed as disclosing "determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents," as recited in claim 48, because sending purchased products is not in any way related to determining which of the product offerings already sent to the consumers to resend to the consumers.


Since the Examiner has not cited any passage of Peled as relating to determination of which of the objects previously transmitted to the consumer to retransmit to the consumer, Applicant respectfully submits that Peled clearly fails to disclose the elements recited in claim 48 and as such, the rejection is improper because a prima facie case of anticipation has not been established. Claims 61 and 71 recite elements similar to those recited in claim 48, and as such, it is respectfully submitted that those rejections are improper for at least the same reasons.

CONCLUSION

On the basis of the above remarks, reconsideration and allowance of the claims is believed to be warranted and such action is respectfully requested.

Respectfully submitted,
SAWYER LAW GROUP LLP

Dated: May 22, 2006



Erin C. Ming
Attorney for Applicant(s)
Reg. No. 47,797
(650) 475-1449